

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO.: CV-

BRIAN ENGLERT,

Plaintiff,

vs.

CREDIT CONTROL, LLC.,

Defendant.

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COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et. seq.*, which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION/VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).

3. This action arises out of Defendant's violations of the FDCPA, 15 U.S.C. 1692 *et seq.*

4. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

5. Plaintiff, Brian Englert, is a natural person who resides in the City of Pittsburgh, County of Allegheny, Commonwealth of Pennsylvania, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

6. Defendant, Credit Control, LLC, (hereinafter "Credit Control") is a foreign limited liability company and a collection agency operating from an address of 16141 Swingley Ridge Road, Chesterfield MO 63017, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6). Richard Allen Saffer, 4522 Woodland Drive, Lake Saint Louis, MO 63367 is the Registered Agent for Credit Control.

FACTUAL ALLEGATIONS

7. Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes, that allegedly went into default for late payment, and is therefore a "debt" as that term is defined by 15 U.S.C. §1692a(5).

8. The Plaintiff's alleged debt was consigned, placed or otherwise transferred to Defendant for collection from Plaintiff, when thereafter Plaintiff started receiving collection communications from Defendant in an attempt to collect this debt.

Messages left on Plaintiff's answering machine

9. Within the past year, the following messages were left on Plaintiff's answering machine by Defendant Credit Control:

- (a) September 20, 2007. This message is for Brian Englert. This is Mr. Downing with CCI. Ah, I need your attorney to contact me. He has until 9:00 p.m. eastern time tonight in regards to a case out of Allegheny County, Case Number 164367. They also wanted me to let you know or let you be informed again, your attorney has until 9:00 p.m. tonight. My direct line is 866-417-5764. Again, 866-417-5764. Good Luck.
- (b) Good morning. This important message is for Brian Englert. Mr. Englert, this is Ms. Falcon and I am calling from the office of CCI in regards to

paperwork that has been expedited to my attention for a final review. Ah, my client has made at least 79 attempts to this phone number and has sent 3 letters to 710 Corbin Street, West Mifflin, Pennsylvania, and you have chosen to, ah, not get in contact with me. So I need to advise you that I need to get this resolved on a voluntarily basis. If you cannot return this call please make sure that you have legal representation give me a call back at my toll free number, 1866-380-3132. Again, that is 866-380-3132. And please make sure that either you or your legal rep has this file number, 1646367. Again, that's 1646367. Um, Mr. Englert, this is a time sensitive matter and it's a serious matter, so as I said I would like to give you an opportunity to get this done on a voluntarily basis. If not, then I will just forward this out for further action. Thank you.

- (c) Good morning. This important message is for Mr. Brian Englert. Um, Brian my name is Rosemary. I'm with the offices of CCI. Someone from our office has already left 52 messages for you. My apologies if they have not been forwarded to you. Mr. Englert it is imperative that you or your legal representative return this call today, sir. My direct phone number is 866-382-1331. Brian, it's in reference to a personal matter that's pending in my office. I do have some excellent offers I can offer you but unfortunately, I can't leave the details on your voice mail. I do need to speak to you personally in reference to this matter. I'd appreciate a return call today. Please don't pass up this opportunity because its, ah, you know

is a really good one for me to work with you. Once again, it's 866-382-1331. Again that number is 866-382-1331. Thank you.

9. The aforementioned calls from Defendant Credit Control to Plaintiff are collection communications in violation of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. §§1692e, 1692e(5), 1692e(10), because the communications create a false sense of urgency, falsely state that a lawsuit had been filed and/or threaten legal action that were not intended to be taken.

10. The aforementioned calls from Defendant Credit Control to Plaintiff are collection communications in violation of 15 U.S.C. §1692e(11) of the FDCPA because in the communications, the caller fails to identify himself or herself as a debt collector attempting to collect a debt.

11. Plaintiff suffered actual damages as a result of these illegal collection communications by this Defendant in the form of anger, anxiety, emotional distress, fear, frustration, upset, humiliation, embarrassment, amongst other negative emotions, as well as suffering from unjustified and abusive invasions of personal privacy.

CAUSE OF ACTION

COUNT I

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C.

§1692 et seq.

12. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

13. The foregoing intentional and negligent acts and omissions of Defendant constitute numerous and multiple violations of the FDCPA including, but not limited to,

each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692, *et seq.*

14. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to statutory damages, actual damages, and reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant Credit Control:

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692, *et. seq.*

- for an award of statutory and actual damages;
- for an award of costs of litigation and reasonable attorney's fees; and
- for such other and further relief as may be deemed just and proper.

Date: Respectfully submitted,

JEFFREY L. SUHER, P.C.

By: **s/Jeffrey L. Suher**
Jeffrey L. Suher, Esq.
Attorney I.D.#74924
4328 Old William Penn Highway, Suite 2J
Monroeville, PA 15146
Telephone: (412) 374-9005
Facsimile: (412) 374-0799
lawfirm@jeffcanhelp.com

Attorney for Plaintiff